UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,094	12/13/2001	Thomas E. Coverstone	8931.002.NPUS00	9964

68769   7590   03/09/2009
HOUSTON OFFICE OF
NOVAK DRUCE AND QUIGG LLP
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

EXAMINER
D AGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
03/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/020,094	COVERSTONE, THOMAS E.
	Examiner	Art Unit	
	Stephen M. D'Agosta	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 February 2009</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>76-80</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>76-80</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. The examiner acknowledges the elected claims 76-80 (Group V) and cancellation of all other claims (1-75 and 81-87).

2. The examiner also acknowledges the Title change. Thank you.

3. A new Non-Final Office Action appears below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

<u>Claims 76-80</u> rejected under 35 U.S.C. 102(e) as being anticipated by Domnitz.

As per **claim 76**, Domnitz teaches a wireless communication system for use with a wireless communication device and a position location system providing position location data indicating positions of the wireless communication device as the wireless communication device moves (figure 3 shows user, mobile device #11, communication system #14 and GPS/Location system #13), said wireless communication system comprising:

a memory containing a database of user selections (Abstract teaches that advertising/information sent to the user is "focused" and contains content that is "of interest" to the user, which inherently requires a "profile" to be determined for each user

which is inherently stored in memory/database/server/etc. Also see C8, L3-10 and C8,
L25-44),

a processor for receiving the position location data from the position location
system and for processing the position location data to determine when the position
location data indicates that the wireless communication device becomes in proximity to
a business at a certain location and the database of user selections contains a selection
of the user of the wireless communication device indicating that the user of the wireless
communication device has an interest in receiving an advertisement of the business at
the certain location (Abstract teaches a time/location delivery system providing focused
advertising or other information to individuals based on their time and location), and

a transmitter for transmitting the advertisement of the business at the certain
location to the wireless communication device in response to the processing of the
position location data determining that the wireless communication device has become
in proximity to the certain location and the database of user selections contains a
selection of the user of the wireless communication device indicating that the user of the
wireless communication device has an interest in receiving an advertisement of the
business at the certain location (C8, L3-10 teaches the user inputting preference data
into a "profile" while C8, L25-44 teaches conveying/transmitting advertisement or other
information data to a user if it is believed there is interest by the user based on
demographics data of that particular user).

As per **claim 77,** Domnitz teaches claim 76, wherein the position location system
is the Global Positioning Satellite (GPS) system (See figure 3 and C8, L64-67. Abstract
also teaches triangulation from BTS towers which is well known).

As per **claim 78,** Domnitz teaches claim 76, wherein the wireless communication
device is a cell phone (Domnitz teaches the device can be an RFID, figure 1, #3 or a
mobile phone, Figure 3, #11. Also see C4, L47-50.).

As per **claim 79,** Domnitz teaches claim 76, wherein the memory further contains a database of user purchases including a history of purchases made by the user of the wireless communication device, and wherein the processor is coupled to the memory for accessing the database of user purchases to determine whether or not the history of purchases made by the user of the wireless communication device indicates that transmission of the advertisement of the business at the certain location to the wireless communication device may be of interest to the user of the wireless communication device, and the processor is coupled to the transmitter for enabling the transmitter to transmit the advertisement of the business at the certain location to the wireless communication device only when the history of purchases made by the user of the wireless communication device indicates that transmission of the advertisement of the business at the certain location to the wireless communication device may be of interest to the user of the wireless communication device -- Domnitz keeping track of various information regarding the user/shopper such as determining if an advertisement should be sent and would be of interest being based on past purchase history of the user:

For example, if the individual has a PDA, or an intelligent wireless telephone, the computer can immediately notify the individual by sending email or any other suitable message to the PDA or intelligent wireless telephone. Likewise, the information can also be made available to the individual at a specific Internet web site, say for example, through a user account. Alternatively, displays within the store can be synchronized with the individual such that as the individual passes by a specific location within the store, **customized advertisements or information based on past user purchases** or user preferences can be automatically downloaded to the monitors as the user passes by fixed interrogators within the store.   (C4, L58 to C5, L20)

As per **claim 80,** Domnitz teaches claim 76, wherein the memory further contains a history of positions of the wireless communication device, and wherein the processor is coupled to the memory for accessing the history of positions of the wireless communication device to determine whether or not the history of positions of the wireless communication device indicates that transmission of the advertisement of the business at the certain location to the wireless communication device may be of interest to the user of the wireless communication device, and the processor is coupled to the transmitter for enabling the transmitter to transmit the advertisement of the business at the certain location to the wireless communication device only when the history of positions of the wireless communication device indicates that transmission of the advertisement of the business at the certain location to the wireless communication device may be of interest to the user of the wireless communication device – Domnitz teaches focusing advertisements based on TIME and LOCATION of a user as well as keeping track of various other pertinent information. Similarly, one skilled expects that the TIME/LOCATION is monitored to determine an amount of time a user frequents a location/store. See C5, L55-65 teaches "logging and monitoring" of the user AND also C9, L59-66 teaches location/movement monitoring as well).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is found in the PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. D'Agosta/
Primary Examiner, Art Unit 2617